

RELATION

OF THE

Proceedings & causes of complaint,

BETWEEN

The Undertakers with the Earle of
Lindsey, in the Levell of Fenns in,
Lincolnshire betwixt Bourne
and Kime Eac,

AND

The Owners and Commoners there.

By H. D. M. 1750.
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Ellis Esquire being Chair-man) alledged the illegality of the Undertakers proceedings , which was referred to Law, and proved it a Project, maintained and forced on by an Arbitrary Power , which matter of fact was examined.

Now to relate the Undertakers Allegations, and the Commoners replies for matter of Law , which was referred to Law .

The Undertakers say, *the land was decreed to them by Lawes of Sewers, to which Lawes they have the Kings Royall assent, so not alterable, but by Act of Parliament.*

The Owners and Commoners say those decrees were altogether illegall and corrupt , they having offered many tryals at Law, which the Undertakers refused and stopped, by Orders of the Council-Table before Parliament, and by Orders of the Lords House since Parliament, untill the House of Commons removed those hinderances, and left the Law open to us, whereupon we had severall Tryalls at Law against the Undertakers , * wherein we had Judgement against them, if the decrees be illegall , the Royall Assent confirms them, but as they are subject to alteration, by tryalls at Law , without a speciall A& of Parliament.

The Royall Assent was promised before any Law or Decree made, so that the bargain was made at Court, before the contract in the Countrey.

The

Witnesse the
Orders.

* Witnesse the
Judgment.

Witnesse the
Kings Letters.

The Undertakers say, they were possessed of 14000.
*Acres of our Commons, by consent and contract
with the Owners and Commoners.*

The Commoners say, they had no consent, but of some twenty in many thousands, some of which was gained by threats and imprisonments; they further deny any contract with the Undertakers, and desire they may shew that contract they pretend, and declare how they came by it.

The Undertakers say, *the gentlemen Commissioners
of Sewers were honest, discreet, knowing men, and
would do nothing but what was legall, just, honest
and equitable.*

So say the Commoners, that many of them were honest, but yet not well knowing in that design of undertaking, the Commission of Sewers mentioneth not such a Creature or Officer, as an Undertaker, if that Commission had been sufficient for an Undertaker, the Acts made the 43. of Elizabeth, ch. 11. and the 4. of James ch. 8. and 13. which directs an Undertaker how to contract for the draining of drowned grounds, and improving waists, was unnecessary, but they were unwilling to be guided by any just known Law, they at the first proceeded by a Jury of five and twenty honest men, which was somewhat legall, but the Juries Verdict not being

* Witness the
Verdict, which
finds the Fens
not hurtfully
surrounded.

answerable to their expectation, the Undertakers left the Law, the old honest way, and stept into by-waies, as thieves do that rob honest men, *and first having bribed the King, with three thousand Acres of our Land, and the Lords of the Councell with other parcells thereof, *they gained the Kings severall Letters, and the Lords Orders to direct the Commissioners of Sewers, (which Power and Acts

* Witnesse the Deeds, involved in Chancery.

* Witnesse the Kings severall Letters, and the Lords Orders.

* Witnesse the Commission of Sewers, and the Commissioners.

of State, was got so much above Law, that it often caused Acts to be done by Commissioners contrary to Law, selling our lands where sufficient distresse might have been taken) and thus they gained their decrees of Sewers, *such Commissioners as saw into the eyill of their designe, and thereupon did not act as they expected, were put out of the Commissioners of Sewers, and themselves, servants and friends only continued in, whereby they became their own Law-makers.

The Undertakers say, *Drayning is a good work, and advantagious to the Common-wealth.*

So say the Commoners, but their proceedings were illegall, as we have formerly proved, not honest, as we shall now prove; for they took the best ground and left the worst, they judged ground worth a Mark the Acre to be let, hurtfully surrounded with water, they judged reed ground worth 40. s. the Acre in that condition hurtfully surrounded, which if it be alwayes dry, will not be worth

13.5.4 d. the Acre, they took halfe of many of the best Commons, out of which by their owne laws; they should at the most have had but a third part; they have left the worst part of the Levell to draine, and to take the least part out of; we are willing and able to draine our own grounds that stand in need thereof, could we have been enabled thereto by Law, or might we enjoy our Commons in severall, what the Law will not suffer us to doe to our owne, we hope strangers shall not force, and be first served, because pretenders for the Common-wealths good, for their own ends, they destroyed the Navigation of our Townes, which the Commission of Sewers specially provides for.

Proved by di-
vers Witnesses.

The Undertakers deny their undertaking to be a project, and their proceedings arbitrary.

The Commoners say it is, and hath so proved it before the Committee, of which M. Ellis had the Chaire: they say, if their ground were as bad as they report it, yet it ought to have been sold to their best Chapman, which it was not; for Sir Anthony Thomas, and Sir William Ayliffe, with their considerable Adventurers would have undertaken to have drained the same Fens for a fourth part, the Commissioners of Sewers then not intending any of them to be sharers, nor being feared with the Kings Letters, or Lords of Couacell Orders,

Proved by Sir
Anthony's
propositions.

Proved by the
Clerks of Sew-
ers, and the
Commissio-
ners Orders.
thought.

thought a fifth part sufficient for the work doing, and would give Sir *Anthony* but 24. hours to consider of their offer, thereupon they treated no further, Sir *Robert Kellegher*, Sir *William Kellegher*, and Mr. *Robert Long* being in the Countrey, and seeing the ground good, and the design advantagious, improved their interest at Court, of which they were Members, * and gained the Kings Letters to commend them Undertakers to the Commissioners, but perceiving they could not make their bargain so advantagious as they desired, seemingly declined to be Undertakers, * and gained the Kings Letter to commend the Earle of *Lindsey* a privy Counsellor, and Lord Lievttenant of our County to be sole Undertaker,

* Proved by
the Kings
third Letter.

* Proved by
Deeds intitled
in Chancery
of bargain and
sale, wherein
they three joyn
with the Earle
in the bribe to
the Lords.

themselves by a secret Contract having equall power and share with him, hoping thereby with the Kings Letters, Councell-Table Orders, a promise of shares to some of the Commissioners, & outing of others, to make the better bargaine for themselves, and so did; for at the fist proffer the Commissioners then sitting, offered a third part of the same Lands, without consent of the Owners and Commoners to the said Earle, for draining of which Lands they would give to Sir *Anthony Thomas* but a fifth part: Court power, friendship, self-interest, and complements,gained a freedome in the Commissioners to give away our Lands, That Sir

Proved by Sir
Robert, Sir *William Kellegher*, and Mr. *Long* were se-
cret Undertakers, witnesse Sir *Roberts* last will and
Testament, he dying before the contract made with
the

the Earle, wherein he gives to his two Sons, *Thomas & Henry* two hundred Acres of our Commons, a signe they had shared our Lands at Court, and made the Countrey Commissioners confirmers of their project, which two hundred Acres were sold by the said *Thomas, Henry, Sir William and Mr. Long*, to one M. *Richard Read* for twelve hundred pound, before the work of draining was begun, and Mr. *Long* sold his share to Sir *Edward Heron*, a Commissioner before the work begun for fifteen hundred pound, and Sir *Edward* to be at all the charge of draining, Mr. *Death* bought some upon the same terms, their own acts witnesse our grounds to be of some valem, before the draining, to bribe with, bequeath, and sell other mens Lands, without a consideration done or given for them, and to force on those bribes, gifts, and bargaines by the Kings Letters, Councell-Table Orders, and commanded Commissioners of Sewers, is a project and arbitrary.

Let all men
judge.

Again, the Commissioners being some of them interested for non-payment of a Tax of 13.s.4.d. the Acre illegally set give the Undertaker half an Acre, which by their owne rates was worth 3.l. and so proportionable most of the 14000. Acres, and at the least they had one Acre in thicke for three Marks, which Acre at their owne rates, as they sold our Lands before hand, was worth 6.l. So that not only those that sold the designe made a prey of us, but those

Proved by di-
vers Witnes-
ses, and their De-
crees.

those that laid out any moneyes would have had for every 2.l. laid out 6.l. by their own rates, and as we value our lands 12.l. Those who legally, peaceably, and honestly opposed this their project carried on by an arbitrary power, apprehending nothing their owa if this power prevailed, were fined, imprisoned, brought before the Councell-Table, threatened with Star-chamber Suits, continually vexed with Messengers, their Cattle driven away, sold without recompence, denied all proceedings at Law, to mens utter undoing, * & forced to enter into bonds, not to complaine but to the Commissioners of Sewers, or Councell-Table, some in the absence of the Earle and the interested Commissioners, complaining to the other Commissioners of some grievances, in hope of Justice in the absence of their Lord and Master; there came a Letter subscribed post, post, post hast, from the Earle of *Lindsey* to the Commissioners, wherein he intimated, that he was well advised by Counsell at Law, that they had nothing to do in that businesse, so knew we very well, but God knows we were bound from the Law, and so left remedilesse, being onely to complaine to those who neither could or would relieve us.

Proved by the
Messengers,
Councell-Ta-
ble Orders,
and divers
Witnesses.

* Proved by the
bonds at the
Counsell-Ta-
ble, and the
Earles owne
Letter.

About June last, 1649, the Undertakers in the Earl of *Lindsey's* Level petitioned this honourable Parliament, and got some Sixteen Commoners, some of whom are ill-affected, others their Tenants, and such as sold the Commoners cattel, and are sued by them; others, such as beat and wounded the Owners Tenants; and others that have no stock to put upon the Commons, To petition the Parliament in the name of the Commoners, being 20000; which Petitions were referred to a Committee of Parliament, of which *John Goodwin Esq;* is Chair-man. They and their Witnesses have been heard.

We the Commoners, being many thousands, that intrusted *Thomas Hall* and *Nicholas Roe*, Gent. about nine yeers since, to petition the honourable House of Commons against the Project of undertaking in the Earl of *Lindsey's* Level, illegally and tyrannically carried on; and having fully proved their Petition, by Evidences, and at the least of a hundred Witnesses, before the Committee of the honourable House of Commons, of which *William Ellis Esq;* was Chair-man, That the House in their Remonstrance dated June 10. 1643, having declared the taking of large quantities of Commons being taken from the Subjects by colour of the Statute of Improvements, and by abuse of the Commission of Sewers, without their consents, and against it, amongst other grievances, to be one, and with them to be the Root and growth

of mischievous Desigues, do much wonder, that these offenders, who have continued as they were enemies to the Publike Good and Peace of this Kingdom, should come Eight yeers after us, and be heard before us ; and that it should be now a Question, after such proofs, Whether they, or we, who have continued ever faithful to the Parliament, be most offenders.

The Commoners have witnessed their reality and faithfulness to the Parliament, by venturing their lives and estates with them. There hath been abroad at once, in the Parliaments service, Volunteers, out of some of these Towns 100, some 60, some 40, some 20, some more, some less ; and the Country upon all occasions ready to rise against the Parliaments Enemies. Few or none served the King, but those that were engaged by the Undertakers.

Sir Edward Heron's eldest son, having an interest in the Undertaking, and being a Colonel of the Kings part, brought down twenty Colours of Horse and Dragoons against those Towns interested in the mentioned Commons, who killed and wounded divers of the Commoners, that rose to oppose their entring into their Country ; and drove away thousands of their horses and other cattel, to their utter undoing. If these our enemies be again brought amongst us, we must expect no mercy from them.

We

(ii)

We hope the Parliament will continue their wonted goodness towards us, and not hear them whom they have formerly refused to hear, upon the same pretences, we mean, to matter of possession, as appeareth by the former Orders of the House; they onely plotting hereby, if possible, to render the Parliament as distastful to the people, by entertaining their Projects, as was the late King. We that have hazarded our lives and estates, without recompence, hope we shall enjoy what we can maintain to be our own by Law. And we desire the Undertakers may be referred, as formerly upon the like complaint, to the Law for remedy, where we will answer them in fair Trials. Let us, who have been suffering friends, be first relieved; and then be as merciful to your and our enemies, as possibly you can in Justice.

Wineses Mr
Walkounds
Order, dated
August 13.
1641.

We desire Master *Ellis* may report our first Proofs to the House, concerning matter of Crime; that for our Imprisonments, Woundings, and Losses, we may receive recompence: the Troubles coming on so fast, that he could not formerly do it.

But if, notwithstanding all we say, and have proved formerly, we must at our great charge answer their last Petitions; we thus reply.

The Undertakers say they were legally and quietly possessed of 14000 Acres of our Commons, almost three yeers.

We deny it, and say, We have continued, and
B 2 hitherto

Proved by di-
vers Wineses,
and Trials at
Law.

hitherto enjoyed our ancient possessions legally, though they by their arbitrary power would have forced us out, and did plow some of our Grounds by that power, notwithstanding we discharged them.

They say, There will be a benefit to the State and Commonwealth by their Compositions.

We say, It is an abuse to a flourishing, reforming, just State, to make them so necessitous, as to tell them they can be bettered by a Project, or an Interest gained by an arbitrary power, otherwise then to return what was so taken away to the right owners.

They the Undertakers say, The Commoners declined the justice of the House, and violently entred upon their Grounds, and destroyed their Corn, and pulled down their Houses.

We desire they may name those that did it : for we the chiefest of the Owners and Commoners that petitioned the House of Commons, say, We were no ways guilty of those acts ; but justly and legally continued, maintained, and recovered our possessions *. We have ever stood for the Priviledge of the House of Commons against the Lords House, and never declined their Justice; which the Undertakers have : for during our Cause

*2d p[er]tains to the
House of Com-
mons Order, da-
ted July 10,
1641, and Sir
Guy Palme-
s[on] report there-*

Cause depending in the House of Commons, they petitioned the House of Lords, preferred Bills, and gained their Order from thence, where by they perplexed us with Messengers, Imprisonments, driving, killing and chasing our Cattel in a riotous and tumultuous manner, desperately

* Wiines the Bill and Order; and divers Wit-nesses that suf-fered.

wounding many of the Commoners with Guns and Swords, by French, Dutch, and wandring strangers to great numbers, and procured Orders to stay our proceedings at Law; *the honest Gentlemen of the Country were put out of the Commission of the Peace, and their friends put in; and Sir Edward Heron, a Commissioner of Sewers, and a sharer with the Undertakers, was made high Sheriff; who violently executed the Lords Orders: And all this was done when our Petition was proving, and they defending, in the House of Commons.

* Wiines Mr Lister, and the rest of the Ge-nlemen.

Proved by Wit-nesses.

Those that pulled down their houses and gathered their corn growing and standing upon their Commons, say, they were provoked thereto by the Undertakers and their Agents, they continuing by power of the Lords Order to plow the poor Commoners ground, after they had discharged them thereof, and by those wandring strangers before named in a tumultuous and warlike manner, some armed on horseback, others a foot, great Guns mounted upon Carriages, to force them out of their possessions, by wounding some of the Commoners, and worrying their Cattell with Doggs, and driving some of them away in the night, and selling them, and refusing to obey

Re-

*So ill did arbitrary power re-
lief with the
People.*

Replevin, and rescued their own Goods when impounded; and the honest Gentlemen of the Country being put out of the Commission of the Peace, and their Friends, strangers, put in, with other injustice and violence done to them, the poor Commoners or Cottagers with strangers, being of weak capacity and understanding, but what they felt and saw, and fearing a power coming upon them to destroy and ruine them, pulled down those houses that were forcibly built upon their Commons, and harboured those strangers and Arms they suffered by, which Houses was standing untill such their usage, and some Tryals had at Law which proved the Decrees illegall, for which Act of theirs they have been fined and imprisoned, and hope they shall not be twice punished for one crime; the manner and not the matter being the fault.

The Undertakers say, A good done, deserves Encouragement and a Reward.

So say the Commoners, if legally and honestly done: But they say, To cure a diseased man by cutting his throat, is a remedie rewardlesse; or to doe good in an evill manner, is both by the Law of God and man unwarrantable, and without recompence: The undertakers by a pretended good to the Common-wealth, taking our lands by an Arbitrarie power contrary to Law, though it accidentally prove a good to some, yet it strangles the Law, the Common-wealths life, and deserves no other reward then he that cureth a disease by throat

throat-cutting : if one may design the use of anothers interest, propriete is lost. This Project of Drayning was condemned in a Parliament *primo Jacobi*, and thrown out of the House of Commons with disgrace. Some moved that Sir *Miles Sands* might have satisfaction for the money he laid out : Sir *Edward Cook* replyed, Let those pay him, that set him a work ; and further added, That it was just that Sir *Miles Sands* should pay dammages to the oppressed and injured Countries, for trying experiments of other mens lands, without and against their consents.

The Earl of *Lincoln* in Queen *Elizabeths* daies procured a Commission for drayning some of the Fens in question, and pretended the work was publike, honourable, feizable, and profitable, and that the people desired it ; but when the Lord *Willoughby* of *Erby* for the Countrie, remonstrated the contrary to the Queen, she in great passion, resumed her Commission, and left the Countrie at libertie to drain themselves.

Which liberty we hope we shall still enjoy, being willing to advance the Publike in any way we shall be enabled to by Law, we having formerly been interrupted in scowring of our ancient Draines and Sewers by that project of Undertaking.

Such petitions as are now preferred for the carrying on of the Earl of *Lindseys* undertaking, we the Owners there doe protest against, knowing them to be signed only by poor people, who have no Interest there but under us, whose hands were indirectly gained by two Alehouse-keepers,

ers, who went from towne to towne, and house to house to gain those hands.

Such Petitions as are for Stinting of our Commons, we declared our willingnesse to in the Countrie, but could not see the Petitions, so that it was but a pretence to carry on the Undertakers design, in rendring us to the Poor, and others, as Oppressors of the Commons of the Country.

MICAH 2. 1, 2, 3, 4, 5.

Wo to them that devise iniquity, and work evil upon their beds : when the morning is light, they practise it, because it is in the power of their hand. And they covet fields, and take them by violence ; and houses, and take them away : so they oppress a man and his house, even a man and his heritage. Therefore thus saith the Lord, Behold, against this family do I devise an evil, from which ye shall not remove your necks, neither shall ye go haughtily : for this time is evil. In that day shall one take up a parable against you, and lament with a doleful lamentation, and say, We be utterly spoiled : he hath changed the portion of my people : how hath he removed it from me ? turning away, he hath divided our fields. Therefore thou shalt have none that shall cast a cord by lot in the congregation of the Lord.

F I N I S.



